

REMARKS

Claims 1-3 and 17-21 are pending in the application. Claims 1, 17 and 18 are rejected under 35 U.S.C. §102(e). Claims 2, 3, 19 and 20 are rejected under 35 U.S.C. §103(a). Claim 21 is objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants have rewritten claim 21 in independent form including all of the limitations of the base claim and any intervening claims and therefore claim 21 is allowable. Applicants respectfully traverse these rejections for at least the reasons stated in the response having a mailing date of December 14, 2004 and file a Notice of Appeal concurrently herewith.

Applicants note that claim 21 was not amended to overcome prior art but to be written in independent form. Hence, the amendment made to claim 21 was not narrowing in scope and therefore no prosecution history estoppel arises from the amendment made to claim 21. *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 62 U.S.P.Q.2d 1705, 1711-1712 (2002); 56 U.S.P.Q.2d 1865, 1870 (Fed. Cir. 2002). Further, the amendment made to claim 21 was not made for a substantial reason related to patentability and therefore no prosecution history estoppel arises from such an amendment. *See Festo Corp.*, 62 U.S.P.Q.2d 1705 at 1707 (2002); *Warner-Jenkinson Co. v. Hilton Davis Chemical Co.*, 41 U.S.P.Q.2d 1865, 1873 (1997).

CONCLUSION

As a result of the foregoing, it is asserted by Applicants that claims 1-3 and 17-21 in the Application are in condition for allowance, and Applicants respectfully request an allowance of such claims. Applicants respectfully request that the Examiner call Applicants' attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining issues.

Respectfully submitted,

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